

**TRANS-ELECT NTD PATH 15, LLC
TRANSMISSION OWNER TARIFF**

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1. **Preamble.** Trans-Elect NTD Path 15, LLC (Trans-Elect) hereby sets forth in this Transmission Owner Tariff the Transmission Revenue Requirement (TRR) for its Entitlements related to high voltage transmission facilities placed under the CAISO's Operational Control, and certain terms and conditions relating to the operation, expansion of and interconnection with the high voltage transmission facilities placed under the CAISO's Operational Control for which Trans-Elect holds Entitlements.
2. **Effective Date.** This TO Tariff is effective on the date on which Trans-Elect becomes a Participating TO and shall continue to be effective so long as Trans-Elect is a party to the TCA.
3. **Definitions.** Certain capitalized terms used in this TO Tariff that are set out immediately below shall have the meanings set out immediately below. Capitalized terms used in this tariff and not defined below shall have the meanings set out in the CAISO Tariff as it may be amended from time to time.
 - 3.1 **California Independent System Operator ("CAISO").** The California Independent System Operator, a state chartered, nonprofit corporation that controls the transmission facilities of Participating TOs and dispatches certain generating units and loads.
 - 3.2 **Market Participant.** An entity, including a Scheduling Coordinator, who participates in the energy market through the buying, selling, transmission, or distribution of energy or ancillary services into, out of, or through the CAISO controlled grid.
 - 3.3 **Participating TO.** A party to the TCA whose application under Section 2.2 of the TCA has been accepted and who has placed its transmission assets and/or Entitlements under the CAISO's Operational Control in accordance with the TCA. A Participating TO may be an Original Participating TO or a New Participating TO. For purposes of this TO Tariff, the Participating TO is Trans-Elect.
 - 3.4 **Path 15 Upgrade Project ("Project").** The transmission system enhancements constructed to upgrade Path 15, which consist of a 500 kV transmission line between the Los Banos Substation and the Gates Substation on the PG&E system, modifications at both such substations, and including 230 kV and 115 kV reinforcements and reconfigurations.
 - 3.5 **Regulatory Authority.** In the case of Trans-Elect, the Federal Energy Regulatory Commission (FERC).
 - 3.6 **Transmission Control Agreement ("TCA").** The Transmission Control Agreement entered into between the CAISO and the Participating TOs within California.
 - 3.7 **Transmission Revenue Balancing Account Adjustment ("TRBAA").** A mechanism established by the Participating TO which will ensure that all

Transmission Revenue Credits and other credits specified in Sections 6 and 8 of Appendix F, Schedule 3 of the CAISO Tariff, flow through to CAISO Tariff and TO Tariff transmission customers.

- 3.8 Transmission Revenue Credit.** The net of the revenues received by the Participating TO from the CAISO for Wheeling service, Usage Charges (excluding any Usage Charges received by the Participating TO as an FTR Holder) and from the sale of an FTR
- 3.9 Transmission Revenue Requirement (“TRR”).** The TRR is the total annual authorized revenue requirements associated with transmission facilities and Entitlements turned over to the Operational Control of the CAISO by the Participating TO. The costs of any transmission facility turned over to the Operational Control of the CAISO shall be fully included in the Participating TO’s TRR. The TRR includes the costs of transmission facilities and Entitlements and deducts Transmission Revenue Credits and credits for Standby Transmission Revenue and the transmission revenue expected to be actually received by the Participating TO for Existing Rights and Converted Rights. The TRR is shown in Appendix I.
- 3.10 Transmission System Rights (“TSR”).** A TSR is an exclusive right to use the incremental transmission capacity created by the Project, including the rights associated with Firm Transmission Rights as such term is used in the CAISO tariff.
- 4. Eligibility.** Transmission service over Trans-Elect high voltage transmission facilities and Entitlements placed under the CAISO’s Operational Control shall be provided only to Eligible Customers as defined by the CAISO Tariff. Any dispute as to whether a customer is eligible for wholesale transmission service shall be resolved by FERC and any dispute as to whether a Customer is eligible for service under this TO Tariff shall be resolved by the Regulatory Authority.
- 5. Access Charges.** The applicable Access Charges are provided in the CAISO Tariff.

 - 5.1 Transmission Revenue Requirement.** As set forth in the CAISO Tariff; the Transmission Revenue Requirement for each Participating TO shall be used to develop the Access Charges set forth in the CAISO Tariff. Trans-Elect’s preliminary Transmission Revenue Requirement, as proposed to be filed with and approved by the FERC, is set forth in Appendix I.
 - 5.2 Transmission Revenue Balancing Account Adjustment (“TRBAA”).** The Participating TO shall maintain a Transmission Revenue Balancing Account (“TRBA”) that will ensure that all Transmission Revenue Credits and the refunds, specified in Sections 6 and 8 of Appendix F, Schedule 3 of the CAISO Tariff, flow through to transmission customers. The TRBAA shall be equal to:
 $TRBAA = TRCF + TRC_T + I$,

$TRC_T =$ The balance representing the prior period difference between the

projected Transmission Revenue Credits and the actual credits.

TRC_F = The forecast of Transmission Revenue Credits for the following calendar year.

I = The interest balance for the TRBA, which shall be calculated using the interest rate pursuant to Section 35.19(a) of FERC's regulations under the Federal Power Act (18 CFR Section 35.19(a)). Interest shall be calculated based on the average TRBA principal balance each month, compounded quarterly.

The Trans-Elect TRBAA, calculated in accordance with the CAISO Tariff and approved by the FERC, is stated in Appendix I.

6. Ancillary Services-Applicability and Charges. If any Ancillary Services are required, Trans-Elect will not provide such services, but the transmission customer will be required to meet any such requirement in accordance with the CAISO Tariff.

7. Billing and Payment.

7.1 [intentionally left blank]

7.2 The CAISO shall pay the Participating TO those Access Charge revenues and such other proceeds and revenues as are provided for in the CAISO Tariff for the purpose of enabling the Participating TO to recover its Transmission Revenue Requirement.

7.3 Those entities, whether End-User Customers, UDCs, MSSs, or others, who are designated by the CAISO as responsible for the payment of Trans-Elect's Transmission Revenue Requirement shall pay to the CAISO all applicable charges related to Trans-Elect's TSRs and Entitlements in accordance with the CAISO Tariff.

8. Requests to Interconnect or Construct Transmission Expansions and Facility Upgrades. All requests for interconnection with the Project should be directed to PG&E, owner and operator of the substations at either extremity of the Project which are the necessary location of any interconnection. Any request for transmission facility expansion should be directed to PG&E and/or Western Area Power Authority, the owners of the substation facilities and transmission line, respectively, which comprise the Project.

9. Uncontrollable Forces and Indemnification.

9.1 Procedures to Follow if Uncontrollable Force Occurs. In the event of the occurrence of an Uncontrollable Force which prevents a Party from performing any of its obligations under this TO Tariff, such Party shall (i) immediately notify the other Parties in writing of the occurrence of such Uncontrollable Force, (ii) not be entitled to suspend performance in any greater scope or longer duration

than is required by the Uncontrollable Force, (iii) use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance hereunder, (iv) keep the other Parties apprised of such efforts on a continual basis and (v) provide written notice of the resumption of performance hereunder. Notwithstanding any of the foregoing, the settlement of any strike, lockout, or labor dispute constituting an Uncontrollable Force shall be within the sole discretion of the Party to this TO Tariff involved in such strike, lockout, or labor dispute and the requirement that a Party must use its best efforts to remedy the cause of the Uncontrollable Force and mitigate its effects and resume full performance hereunder shall not apply to strikes, lockouts, or labor disputes. No Party will be considered in default as to any obligation under this TO Tariff if prevented from fulfilling the obligation due to the occurrence of an Uncontrollable Force.

9.2 Indemnification. A Market Participant shall at all times indemnify, defend, and save the Participating TO harmless from any and all damages, losses, claims, (including claims and actions relating to injury or to death of any person or damage to property), demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Participating TO's performance of its obligations under this TO Tariff on behalf of a Market Participant, except in cases of negligence or intentional wrongdoing by the Participating TO.

10. Regulatory Filings. Nothing contained herein shall be construed as affecting, in any way, the right of Trans-Elect to unilaterally make application to FERC as it deems necessary and appropriate to recover its Transmission Revenue Requirements, or for a change in its terms and conditions, including changes in rate methodology, or for a change in designation of transmission and Entitlements to be placed under the CAISO's control, pursuant to the applicable FERC rules, regulations, policies, and governing statutes.

11. Miscellaneous.

11.1 Notices. Any notices, demands, or requests in accordance with this TO Tariff, unless otherwise provided in this TO Tariff, shall be in writing and shall be deemed properly served, given, or made: (i) upon delivery if delivered in person, (ii) five days after deposit in the mail if sent by first class United States mail, postage prepaid, (iii) upon receipt of confirmation by return electronic facsimile if sent by facsimile, or (iv) upon delivery if delivered by prepaid commercial courier service, in each case addressed to a Party at the address set forth in Appendix II. Any Party may at any time, by notice to the other Parties, change the designation or address of the person specified in Appendix II to receive notice on its behalf. Any notice of a routine character in connection with service under this TO Tariff shall be given in such a manner as the Parties may determine from time to time, unless otherwise provided in this TO Tariff.

11.2 Waiver. Any waiver at any time by any Party of its rights with respect to any

default under this TO Tariff, or with respect to any other matter arising in connection with this TO Tariff, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this TO Tariff. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

11.3 Confidentiality.

11.3.1 Maintaining Confidentiality if Not for Public Disclosure. The Participating TO shall maintain the confidentiality of all of the documents, data, and information provided to it by any other Party that such Party may designate as confidential, provided, however, that the information will not be held confidential by the receiving Party if (1) the designating Party is required to provide such information for public disclosure pursuant to this TO Tariff or applicable regulatory requirements, or (2) the information becomes available to the Public on a non-confidential basis (other than from the receiving Party).

11.3.2 Disclosure of Confidential Information. Notwithstanding anything in this Section 11.3.2 to the contrary, if any Party is required by applicable laws or regulations, or in the course of administrative or judicial proceedings, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section 11.3.2, the Party may disclose such information; provided, however, that as soon as such Party learns of the disclosure requirement and prior to making such disclosure, such Party shall notify the affected Party or Parties of the requirement and the terms thereof. The affected Party or Parties may, at their sole discretion and own costs, direct any challenge to or defense against the disclosure requirement and the disclosing Party shall cooperate with such affected Party or Parties to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The disclosing Party shall cooperate with the affected Parties to obtain proprietary or confidential treatment of confidential information by the person to whom such information is disclosed prior to any such disclosure.

11.4 Titles. The captions and headings in this TO Tariff are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the rates, terms, and conditions of this TO Tariff.

11.5 Severability. If any term, covenant, or condition of this TO Tariff or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest, by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this TO Tariff and their

application shall not be affected thereby but shall remain in force and effect. The Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination, unless a court or governmental agency of competent jurisdiction holds that such provisions are not severable from all other provisions of this TO Tariff.

- 11.6 Preservation of Obligations.** Upon termination of this TO Tariff, all unsatisfied obligations of each Party shall be preserved until satisfied.
- 11.7 Governing Law.** This TO Tariff shall be interpreted, governed by, and construed under the laws of the State of California, without regard to the principles of conflict of laws thereof, or the laws of the United States, as applicable, as if executed and to be performed wholly within the State of California.
- 11.8 Appendices Incorporated.** The appendices to this TO Tariff are attached to this TO Tariff and are incorporated by reference as if fully set forth herein.
- 11.9 Consistency with CAISO Tariff.** This TO Tariff is intended to be consistent with the CAISO Tariff, and, if necessary, shall be amended to conform with any changes authorized or required in any final order in a FERC proceeding mandating such changes in the CAISO Tariff.
- 11.10 Disputes.** Except as limited by law, the CAISO ADR Procedures shall apply to all disputes between parties which arise under this TO Tariff. The CAISO ADR Procedures set forth in Section 13 of the CAISO Tariff shall not apply to disputes as to whether rates and charges set forth in this TO Tariff are just and reasonable under the Federal Power Act.

APPENDIX I**Transmission Revenue Requirement and TRBAA**

The Trans-Elect Base Transmission Revenue Requirement is \$49,750,000.

The TRBAA is estimated to be \$0 for initial year of Project operation, calendar year 2004, as computed in accordance with CAISO Tariff.

All of Trans-Elect's Entitlements placed under the CAISO's Operational Control are related to High Voltage Facilities as defined by the CAISO Tariff.

The TRBAA will be recalculated annually consistent with the CAISO Tariff, approved by the FERC, and provided to the CAISO.

APPENDIX II

NOTICES

Designated Representative:

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**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Trans-Elect NTD Path 15, LLC

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Docket No. EL04- -000

NOTICE OF FILING
(_____, 2004)

Take notice that on _____, 2004, Trans-Elect NTD Path 15, LLC (“Trans-Elect”) submitted a Petition for a Declaratory Order (1) determining that Trans-Elect’s proffered Transmission Revenue Requirement (“TRR”) is appropriate under the California Independent System Operator Corporation’s Tariff on file at the Commission for purposes of Trans-Elect’s becoming a Participating Transmission Owner, (2) approving Trans-Elect’s Transmission Owner (“TO”) Tariff; (3) waiving the filing fee otherwise applicable to a petition for declaratory order; and (4) granting any other relief or waivers necessary or appropriate for approval or implementation of Trans-Elect’s TRR and TO Tariff effective as of the later of January 1, 2004 or the effective date of a Transmission Control Agreement acceptable to Trans-Elect.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). All such motions and protests should be filed on or before _____, 2004. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at:

<http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Magalie R. Salas

Secretary